

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

***** MINUTES *****

REGULAR MEETING – MONDAY, JANUARY 9, 2017 - 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, January 9, 2017 at 7:00pm at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT:

Dan Durham, Vice Chairman
Don Walker, PC Rep to ZBA
Mike Flood, BOT Rep to ZBA

Lucy Koscierzynski, Board Member
Tony Cook, Alternate

ZBA MEMBER ABSENT:

Loren Yaros, Chairman

CONSULTANT PRESENT:

David Goodloe, Township Building Official

OTHERS PRESENT:

Paul Deters	Caitlyn Geda
Joseph Kuszewski	Jason Geda
Karen Colley	Jamison Van Houzen
Amanda Gulas	Sgt. Zehnpfenning OCSO
Mary Geda	Lynn Harrison

1. OPEN MEETING

Vice Chairman Durham called the meeting to order at 7:00pm.

2. ROLL CALL

3. ELECTION OF OFFICERS

Board Member Walker noted that he received an email from Chairman Yaros indicating that he would be interested in serving as Chairman for 2017 if nominated.

Moved by Board Member Koscierzynski, seconded by Vice Chairman Durham to nominate and re-elect Loren Yaros for the Chairman position for 2017, that the nominations be closed and a unanimous ballot be cast. **Motion carried unanimously.**

Moved by Board Member Koscierzynski, seconded by Trustee Flood to nominate and re-elect Dan Durham for the Vice Chairman position for 2017, that the nominations be closed and a unanimous ballot be cast. **Motion carried unanimously.**

4. MINUTES

12-12-2016, Regular Meeting Minutes

Board Member Cook noted a correction on page 3 of the minutes (page 4 in BoardBook) in the third paragraph, third sentence. It should read "...someone has excavated on his property line without his knowledge."

Moved by Trustee Flood, seconded by Board Member Koscierzynski to approve the December 12, 2016 Regular ZBA Meeting Minutes as amended. **Motion carried unanimously.**

5. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

6. ZBA BUSINESS

A. AB-2017-01, Metro Detroit Signs/Baldwin 75, LLC, 4950 Baldwin Rd., Sidwell #09-32-351-005

Vice Chairman Durham read the petitioner's request as follows:

The petitioner is requesting two variances from Sign Ordinance No. 138, Section 8, Schedule B, GB-2:

1. A variance to allow an additional wall sign (north elevation), to install a total of two wall signs (north and east elevations).
2. A 10.6 sq. ft. variance above the allowed 60 sq. ft. area of a wall sign, to install a total of 70.6 sq. ft. of wall signage.

Mr. Paul Deters with Metro Detroit Signs, 11444 Kaltz Ave. Warren, presented.

Vice Chairman Durham clarified there is a sign on the Baldwin Road side (east) and they are requesting to duplicate that signage on the north frontage. Mr. Deters said, that was correct. Vice Chairman Durham commented that he understands the request because it is a "mixing bowl" in that area and doesn't want people to have to try and slow down to find what they are looking for.

Board Member Walker responded however that someone driving south on Baldwin would be able to see both of those faces easily. Mr. Deters explained that the difficulty is when someone is about 100 yards north of the property, in between the road and the building is a 6 ft. wide utility pole that blocks the front elevation. Also, adjacent to that in the line of vision is the large Big Boy pylon sign. When someone is a 100 yards away and in the right lane of traffic on Baldwin Road, they cannot see any part of the face of that entire shopping center. Starbucks doesn't have that problem because they have a standalone sign. With ATI, his client, at a fairly high rate of speed it is difficult to see.

Board Member Cook clarified that the petitioner is seeking only one sign? Mr. Deters said, correct. The other one has already been installed and permitted. Trustee Flood commented that the variance, if approved, would be allowing for a total of two signs – the one already on the building and the one they are requesting for the north side. Mr. Deters also noted that originally ATI had requested 3 signs and had rescinded one. Mr. Deters commented the two signs combined, if the additional one is approved, would be just slightly over what ordinance allows. Vice Chairman Durham said he appreciated the fact that the petitioner wasn't seeking something hugely garish; he was asking to just duplicate the sign that is already there.

Board Member Cook said one thing he noticed going south on Baldwin Road are the trees and when they have leaves on them would further complicate visibility.

Trustee Flood noted there has been various requests for some of the newer buildings in that area. He did not believe the request was unreasonable especially for that location.

Vice Chairman Durham asked if there was anyone else present that would like to speak to this matter. There were none.

Moved by Board Member Kosciuszynski, supported by Trustee Flood, that in the matter of ZBA case AB-2017-01, Metro Detroit Signs/Baldwin 75, LLC, 4950 Baldwin Rd., Sidwell #09-32-351-005 that the petitioner's request for a variance from Sign Ordinance No. 138, Section 8, Schedule B, GB-2: 1) a variance to allow an additional wall sign (north elevation), to install a total of two wall signs (north and east elevations), and 2) a 10.6 sq. ft. variance above the allowed 60 sq. ft. area of a wall sign, to install a total of 70.6 sq. ft. of wall signage; that the variance be **granted** because the petitioner did demonstrate that practical difficulties exist in this case and that he set forth facts which show that compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose or would render conformity with the ordinance unnecessarily burdensome based on the following: the petitioner stated that they need the sign for people to see

from a different angle; granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the area or that a lesser relaxation than that relief applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners based on the following: as stated in the application, the proposed wall sign is relatively small and not excessively bright, what they are proposing is similar to neighboring businesses in the area; the petitioner's plight is due to the unique circumstances of the property, based on the following: that the business is located at an area where it needs to be seen from two different areas; the problem has not been self-created; further, let it be noted that the sign request for the western façade had been withdrawn.

Roll call vote was as follows: Walker, yes; Cook, yes; Flood, yes; Kosciuszynski, yes; Durham, yes;
Motion Carried 5-0

B. AB-2017-02, Jason & Mary Geda, 2396 Brabant Drive, Sidwell #09-20-177-015

Vice Chairman Durham read the petitioners' request as follows:

The petitioners are requesting a variance from Zoning Ordinance No. 78, Article XXVII, Section 27.04, C, 2, c: requesting a 6 ft. variance from the required 10 ft. to park/store a recreational vehicle 4 ft. from the side property line (east).

Mary and Jason Geda, the petitioners, were present.

Vice Chairman Durham noted that the petitioners were before the ZBA in November of 2016. He asked them, between then and now, what has changed? Ms. Geda commented that when they were here in November, there were a lot of issues brought up that she didn't address and felt they were irrelevant at the time and not worthy of the Board's time – issues that weren't specific to the case. She believed that if she had addressed those issues, it would have helped Board members see that they (the Gedas) were looking at things like water drainage and grading. Mr. Geda also responded that this request has been relaxed, at the last meeting there were concerns that the boat would be kept too close to the property line, 1 ft. That has now been relaxed to 4 ft. from the property line (a 3 ft. difference).

Vice Chairman Durham said he remembered from the last meeting that they had intended to put down a gravel pad at some point. Ms. Geda said it was their understanding that this Board could make that determination or that the Building Department could require it. Ms. Geda said however they do have the intention of doing that, a concrete or asphalt one. They have two teenagers who will be driving soon and would like something along the garage where they can park cars. Ideally they would like to make the pad big enough to accommodate both a car and the boat.

Mr. Geda clarified that they want to park the boat on their property. The place where they are allowed to park it is in the backyard but there is a problem with that. Their house has narrow frontage to the street and on both the west and east sides of the house, they can't reasonably get the boat into the backyard. On the west side there is landscaping that is bricked in and also a tree that would be in the way. On the east side is a 5 ft. x 16 ft. garden which would have to be removed. In addition, moving it back there would tear up the yard, it would not be very easy or reasonable to do that. The best place to put it would be on the side of the house in between garages, his and the neighbors' (Mr. Kuszewski's). There was a lot of precedence in the neighborhood which the Board commented on at the last meeting - there were many examples of where other homeowners were doing the same thing as what was being asked for here. Mr. Geda noted, however, they may be the first to ask for approval.

Mr. Geda said they have a lot of concurrence from neighbors and have provided signed petitions which were in the packets. Mr. Geda commented another reason they can't park the boat in the back is because the backyard is open between neighbors – everyone would see it more than if it were

parked next to the garages. Also, a lot of the neighborhood children play in the neighboring backyards. Ms. Geda believed the latter was one of the biggest issues. She also noted they have an in-ground sprinkler system that would have to be moved to get the boat into the backyard. Ms. Geda commented that the landscaping and sprinkler system was well established before they moved in. Currently there are large swing sets in the yards behind their house and that is where all the kids like to play - on the side of their house between the garages is not a play location.

Vice Chairman Durham asked the Gedas then if they don't feel the boat will detract from the street appearance or curb appeal of their property? Mr. Geda replied he believed just the opposite, it would be improved. For the majority of the year they park the boat in the driveway, if they are allowed to store it on the side, they would pave it and keep the boat there all year. It was his opinion that would be an additional bonus if they receive the variance - the line of sight down the street would be improved and they would have more use of their driveway; keeping their cars off an already congested street.

Vice Chairman Durham noted correspondence was received from several of their neighbors and read them into the record:

A letter from the Keatington Home Owners' Association dated November 13, 2016 which indicated that if the variance is granted, deed restrictions as they apply as enforced by Keatington's HOA in regards to recreation vehicle storage will still apply as noted, specifically in regards to the recreational vehicle being removed from the driveway to suitable seasonal storage either in the backyard or side yard on the property by December 1st of the current year.

Petitions from neighbors dated October 13, 2016 and December 30, 2016 who had no concerns with granting the variance as requested.

A letter from Debbie Heath, 2393 Brabant, dated October 18, 2016 in support of the Geda's request.

Trustee Flood disclosed that he was absent from the last meeting but is able to hear and act on this case because this was not a postponement but a new request. Trustee Flood commented that he is 50/50 on which way to act on this issue. He understands the reasons why some of the Geda's neighbors are in favor of the request but also understands there are neighbors who are abiding by the HOA bylaws and knew those bylaws when they purchased the property. He added they are not here to judge the HOA bylaws but whether or not to grant a variance from the Township's Zoning Ordinance.

Trustee Flood said he was very familiar with the subdivision and many people are able to keep their boats at the marina, a majority store their boats off site and some store them beside their homes or in back of them. He then explained why the ordinance calls for a 10 ft. side yard setback. Some of those lots/houses are close together and the fire department needs to have access to those backyards. He noted that each ZBA case is judged on its own merit and does not believe granting the variance would set a precedence.

Trustee Flood reiterated that he is having a hard time making a decision because of the facts he stated above and for safety reasons. Trustee Flood recalled that in 2010/2011 the Board Room was full of Keatington residents who were ticketed for having their recreational vehicles in front of their premises and blocking sight lines along the streets. A Township wide variance was put in place where recreational vehicles could be kept in a driveway as long as they met a setback that would keep them out of street sight lines. Trustee Flood commented he will be basing his decision on knowing how close some of those lots are. He noted, however, that some of those lots are large enough where a recreational vehicle could be kept along the house and still meet the required setback.

Ms. Geda responded she had a copy of the Deed Restrictions and it states in Part I, Section II, that boats shall be stored with proper and adequate covering in the rear of residence except as may be otherwise permitted by the Architectural Control Committee. This is where they petitioned to and obtained the letter from the HOA previously mentioned. She clarified that boats are allowed to be kept at a residence in the back or where otherwise permitted. Ms. Geda said she understood Trustee Flood's fire safety concern and doesn't want to create a problem but commented that the nearest fire hydrant to them is located behind them on Browning and believed that would be where the fire department would hook up if they had a fire.

Vice Chairman Durham asked about the letter from the HOA Architectural Control Committee, he understands that they are able to grant exemptions however he read the letter to mean they will abide by the Township ZBA decision – hoping they wouldn't have to address several other similar requests. Mr. Geda disagreed and said, Mr. DePalma who signed the letter, believed they should be granted a variance. Mr. Geda did not believe it was the intent of the association to put this in the ZBA's "lap". Ms. Geda concurred and said that Mr. DePalma actually came to their home and looked at where they wanted to put the boat – it took several months of correspondence to get him to do that.

Joseph Kuszewski, 2390 Brabant, owns the property immediately to the east of Mr. & Mrs. Geda and therefor has the most input. He noted he objects to their request. Mr. Kuszewski commented that the Geda's boat is a pontoon boat which is 20 ft. long and the trailer hitch would add 8 ft. to that. It stands approximately on a trailer 10 ft. high and close to 10 ft. wide – it is a big boat. Mr. Kuszewski commented that two years ago the Gedas parked the boat in their driveway, about 15 ft. away from the property line, he didn't like it but was ok with it. He does not object to them parking the boat in their driveway.

It was Mr. Kuszewski's opinion that where they want to put the boat will become a storage place. He asked the ZBA what they thought the difference was between parking and storing a vehicle? Vice Chairman Durham said he believed they would park it in the summer between uses and store it in the winter covered when it is not going to be used. Mr. Kuszewski estimated that the Gedas only use the boat 5% to 10% of the time, it would then parked or stored during the summer as well as during the winter alongside the garage. Currently the Geda's are storing the boat off-site. Mr. Kuszewski pointed out that Mr. Geda is an engineer and believes he is fairly well compensated and can afford to store the boat. In his opinion if they plan on keeping the boat alongside the garage during both the winter and summer, it could be a real problem – it will be right next to his house. Mr. Kuszewski pointed out that their original variance request was not approved by the Board In November, the only thing they are doing now is moving it over another 3 ft.. Again, Mr. Kuszewski referred to the size of the boat, that it was large and definitely not a fishing boat. For these reasons he asked the Board again not to approve the variance request.

Vice Chairman Durham clarified the fact that Mr. & Mrs. Geda are pushing the placement of the boat an additional 3 ft. off of Mr. Kuszewski's property then what they asked for in November which was 1 ft.

Board Member Koscierynski noted that when Mr. & Mrs. Geda where here in November, she was ok with their request and would like to make a couple comments. Board Member Koscierynski said she was not comfortable with the reference to their finances and would not make a judgement on how they choose to budget their money. Regarding where the boat will sit, it needs to be noted that it will be in between the two garages – the Geda's and Mr. Kuszewski's. The boat would not be where it would be visible to Mr. Kuszewski all the time.

Vice Chairman Durham concurred that the Geda's financial means should not be a concern of the Boards and is not what they are here for to discuss.

Ms. Geda thanked the Board for that decision and felt she should have addressed that issue when it was brought up at the last meeting.

Ms. Geda gave the Board pictures of the proposed location that showed the boat would sit between the two garages and would not be visible from Mr. Kuszewski's residence.

Board Member Koscierynski also noted that when Mr. & Mrs. Geda's children start driving, assumed they will have cars, that was another concern of hers. She has driven around the neighborhood and there is a lot of recreational vehicles, if the variance is denied, there would not be enough room in the driveway for the boat and all their vehicles. They would have to park vehicles in the street.

Ms. Geda agreed - four cars and a boat would not fit in their driveway and would add to the congestion that already exists on Brabant.

Vice Chairman Durham noted correspondence received from James Rubow, 2382 Browning. Mr. Rubow wrote that he remained opposed to the variance, the 10 ft. setback allows for emergency vehicles to easily access properties, keeps the lake visible to all and avoids creating a hodge-podge of unsightly equipment throughout the subdivision; it is a matter of safety, courtesy and setting a precedence.

Mr. Kuszewski commented that Board Members noted that discussing the Geda's financial status was not appropriate however he pointed out that in the minutes of the November 28th meeting, a Board Member asked the Gedas why they want to do this (keep the boat at their residence)? After the Geda's response, the Board Member replied then that their understanding was the only reason the Gedas want to make this request is to save money - referring to storage fees. Mr. Kuszewski believes this should be considered and money is relevant.

Mr. Geda further explained that the position of their house on the lot hinders them from parking the boat in the backyard where it is allowed. Mr. Geda also mentioned that Mr. Kuszewski's garage is roughly only 9 ft. off the property line. As Mr. Kuszewski mentioned earlier, he was one of the first residents in that subdivision and had control where his house and garage were built, the Geda's did not.

Vice Chairman Durham commented that his biggest concern is that allowing one will turn into five, and then into twelve etc.. It is a nice clean subdivision now.

Mr. Geda replied they have a strict homeowners association and Mr. DePalma, with the association, was making an effort during his term to clean up and make sure everyone was following the rules. There are a lot of people parking boats and other recreational vehicles on the side of their yards which are not decrepit or unsightly. They are not asking for a variance for something like that, the boat will be taken care of and covered nicely – he cares about his property and does not want to make it look bad. Residents are doing it already and most of the neighbors don't have a problem with it as long as it is not junk and looks bad.

Vice Chairman Durham asked Mr. Geda if he agreed with the dimensions of the boat and trailer Mr. Kuszewski presented? Mr. Geda said, no, the width of the trailer is 8' 4", the trailer is roughly 28 ft. long including the tongue, the boat itself is 20 ft. and by no means the largest boat on the lake and well within what could be docked at the marina. The only reason they don't keep it at the marina during the summer is because there is a 7 to 10 year waitlist.

Amanda Gulas, 2369 Brabant, commented on the corner of Brabant and that it was a concern of hers. If the Geda's keep the boat in the driveway and then both their children get cars, those cars will end up being parked on the street. It's a safety issue, already the street is impassable. She has 6

children and is in favor of the variance to allow the boat to be kept along the garage keeping additional cars off the street. Ms. Gulas also commented already there is a lot of people who park boats on their lawns - her neighbor does. She believed people are doing so without permission or getting a variance from the ZBA. It was her opinion what the Gedas are doing is teaching their children to abide by the law. Ms. Gulas concurred that if the boat is kept in the backyard, where the majority of the neighborhood kids play, others are going to want to look out their windows at the boat back there. If it is parked on the side of the house, no one will see it from the backyards and Mr. Kuszewski wouldn't see it either because it would be alongside his garage. Ultimately it was her opinion the Gedas should be allowed to park the boat alongside their garage for the safety of neighborhood children.

Karen Colley, 2387 Brabant, noted that her home is directly across the street from the Gedas. Ms. Colley said she concurred with Ms. Gulas' concerns about safety and visibility from the corner. Already there are cars parked on the street and with the Geda's upcoming teenagers getting licenses, it will mean more cars. For the road to be blocked is unsafe. Opening up the space to the side of their house seems the practical route to go. She commented that one of her neighbors parks their camper in their backyard where she can see it and doesn't like - would prefer it be on the side.

Jamie Van Houzen, 2407 Browning, has a house behind the Gedas. Mr. Van Houzen noted that if the Geda's have to pull the boat behind their home it would tear up the entire yard and would have to watch his kids that play there be exposed to the dirt, mud and ruts. The Gedas would have to make almost a 90 degree turn to get the boat in the backyard, it makes no sense. What makes sense is to park the boat next to the side of the house where almost no one can see it. There are several people in the subdivision that are already do that. Mr. Van Houzen said he was shocked when he heard someone was contesting the Geda's request. Mr. Van Houzen then addressed the size of the boat, it was his opinion that a 20 ft. boat was not a large boat, especially for a pontoon. Mr. Van Houzen said the Gedas have his full support. Again his children play in the two backyards with the Geda's children and seeing other boats in backyards is more of an eyesore than a nicely shrink wrapped one tucked in next to a house - not an unreasonable request.

Amanda Gulas pointed out on one of the maps that was provided where she lives in relation to the Gedas and the corner she was concerned about. She noted that on that corner is large pine tree and again that there are a lot of cars parked on the street. If the Geda's teenagers have to park on the street too, she is petrified someone may get hurt just because of a 4 ft. variance.

Mr. Kuszewski commented that if all these people came to support the Geda's petition, then why did the Board reject their request at the last meeting, their request is only for 3 ft. less now? It was his opinion it should be rejected again.

Jamie Houzen asked the Board again to take a look at the number of signatures the Geda's were able to gather and the amount of support they have. It's just not the three of them here tonight, they have at least 13 signatures which he believes is strong support from the community.

Trustee Flood addressed the park vs. storage question. He is looking at this as permanently storing the boat year-round. Once the variance is granted, any future homeowners will have that same option, the variance stays with the property. He reiterated his concern is allowing a deviation from the 10 ft. setback between these lot lines and houses. Building Official Goodloe commented that Trustee Flood was correct however the Gedas plan on parking cars along the garage either way.

Ms. Geda noted that per the homeowners association, they are allowed to keep the boat in the driveway April through the end of November, starting December 1st it has to be moved to backyard or somewhere else. Building Official Goodloe added, or to a side yard if there is proper setback.

Board Member Cook commented he was present at the last meeting and noted this is a boating community. It was his opinion the zoning/setbacks should be changed for that entire area, this is not an isolated event. If this variance is approved, others will start coming in wanting the same thing. The bigger solution would be to rezone that whole area. For the Zoning Board to allow this is really unfair to people who have moved there with a certain expectation. Board Member Cook said he understands their plight with their particular lot but it puts them in a position where they would be ruling on something that is bigger than what this Board should take on.

Building Official Goodloe commented he believed the zoning/setback issue has been addressed, there is an ordinance or setback requirement that allows for a recreational vehicle to be parked in front of a house as long as it is on a pad, meets the setback and does not impede on sight line vision. He believed this was more of a homeowners association issue within a subdivision. Board Member Cook agreed however he was referring to a Township ordinance being more specific to this community and not the Township as a whole.

Board Member Walker commented in order to grant a variance from any section of the ordinance, one of the criteria that needs to be answered is that “the problem has not been self-created”. He is having difficulty with that criteria applying to their boat. He asked the applicants if they could explain how that applies to their situation - convince him that they didn’t create this situation. Ms. Geda replied that they purchased the property about 2 years ago. The previous homeowner put in the large garden and planted the trees and put in the landscaping and sprinkler system all of which makes it difficult for them to put the boat in the backyard.

Board Member Walker clarified that was in place when they purchased the property? Ms. Geda said, correct, but they didn’t create those problems, they were existing. Board Member Walker said in his opinion, the problem was created when they purchased the boat and what is causing the need for a variance, not the stuff that is in the backyard. Board Member Walker asked again why this hasn’t been self-created, how was this not caused by them buying a boat? Mr. Geda responded that they looked around the neighborhood, it is a boating community, they saw that everyone was parking their boats on their property and therefore had the expectation that it was allowed. When they actually investigated it, found out there were some things they needed to do and therefore started with the HOA and got their approval. They are now asking for the Township’s.

Vice Chairman Durham said he understands what Board Member Cook was suggesting as far as a zoning change being the best fair answer for the long term. However tonight they have a viable, properly brought forth request that they should rule on - for or against. The Gedas indicated, yes, they would like the ZBA’s decision on this. Ms. Geda added that it appears to her that as long as Keatington has been there, they are the first ones to come forward and try to do this properly, she doesn’t believe there will be an influx of people after them trying to do the same thing. Most people in the subdivision don’t seem to have a concern that their neighbors have boats. They are here because they wanted to follow the law, wanted to do the right thing and there was a neighbor who had a concern.

Vice Chairman Durham commended them for trying to do this the right way. He commented again that it was not an easy decision last time nor will it be this time; he can see both sides of this. As Board Member Walker had mentioned, there are strict guidelines to granting variances that they have to touch base on. There has to be practical difficulty, it can’t be self-created, etc.

Trustee Flood commented on Board Member Cooks’ comment, when this subdivision was planned, they set up a legal association with bylaws and guidelines that homeowners need to abide by, in this case, the last paragraph in the HOA bylaws is in regards to recreational vehicles - storage will still apply as noticed specifically in regards to the recreational vehicle being removed from the driveway to suitable seasonal storage either in the backyard or side yard on the property by December 1st of each

year; Trustee Flood emphasized the word suitable. If the Gedas could meet the 10 ft. side yard setback, they wouldn't be here.

Board Member Cook said associations are created for the system and order of a neighborhood, they have no legal bearing on what the Township does or does not do. In this case what the Keatington Association does or doesn't allow really can't have an effect on this decision, the Board has to look at the facts - was it self-created and other things along those factors. The reason he brought up the bigger picture of getting this area rezoned was because as other people mentioned, there are now some safety concerns developing as neighborhood children get older - he is aware how this is affecting them but at the same time has to look at what our rules say.

Trustee Flood added that like all ordinances, it applies to everyone and why a lot of recreational vehicles throughout the Township were ticketed for not properly being stored where they should have been.

Karen Colley commented the neighborhood has already been established and agreed with Ms. Geda that there will not be an influx of anyone else.

Ms. Geda noted she has pictures of other homes with boats that are clearly not 10 ft. away from their property lines; none of these have been addressed by Mr. Kuszewski or anyone else. It was her opinion that if there was a large concern in the neighborhood for boats being illegally stored, there has been 47 years of opportunity for people to come forward. Ms. Geda said that she could easily find more in other Keatington subs. Vice Chairman Durham replied however that they don't know what the rules were at the time when those properties were laid out, rules may change from time to time and we don't know how many of those have been cited. He told Ms. Geda that he didn't doubt what she was saying but in his opinion, they have to deal with what is before them tonight.

Board Member Kosciuszynski commented that she appreciates the fact that the Gedas are trying to do the right thing and again, this is a very difficult decision for her as well. Issues have been brought up regarding matters of fire safety, cars being parked in the street and the safety of children in the area; there are homeowners who are opposed and homeowners who are in favor of the request - there are a lot of variables to consider. She thanked the Gedas for coming to the ZBA a second time and again, trying to do the right thing.

Ms. Geda said they understand there are a lot of variables to consider and have looked at this from a lot of different perspectives, not just what's best for her family but also for the neighbors around them. Ms. Geda then addressed a drainage question that was asked at the last meeting. She commented that they did look at that issue and talked to two contractors about the slope of a pad if they put one in. She also informed them that they want drainage from their roof to be directed underground; does not want to create the chance of a flood. They have looked at this and as well as other safety issues.

Mr. Kuszewski commented it was noted earlier that stipulations were in place and if the present owners did not know them, the problem with purchasing the boat...if they didn't purchase a boat, it would be a different story. He agreed with the comment that they knew or should have known about these stipulations when they moved in.

Trustee Flood noted this is a very difficult case as it has been stated:

Moved by Trustee Flood, seconded by Vice Chairman Durham that in the matter of ZBA case AB-2017-01, a request for a non-use variance from Zoning Ordinance No. 78, the petitioners' are requesting a variance from Article XXVII, Section 27.04, C, 2, c: requesting a 6 ft. variance from the required 10 ft. to park/store a recreational vehicle (boat) 4ft. from the side property line (east), be **denied** because the petitioner did not demonstrate that practical difficulties exist in this case and has

been self-created based on the following: 50% of the neighbors support the request, 50% did not; the neighbor to the east was opposed who would be affected by the 10 ft. setback, and then there were neighbors who were for it; this being a boating community, to grant the variance would cause an undo concern for safety and possibly would set a precedence in this community.

Roll call vote was as follows: Cook, yes; Flood, yes; Koscierzynski, no; Walker, yes; Durham, no

Motion Carried 3-2

7. PUBLIC COMMENTS

None heard.

8. COMMUNICATIONS

Moved by Trustee Flood, seconded by Board Member Koscierzynski to cancel the January 23, 2017 ZBA regular meeting due to lack of agenda items. **Motion carried unanimously.**

9. COMMITTEE REPORTS

None

10. MEMBERS' COMMENTS

Trustee Flood commented how difficult the decision was on the Geda's case.

Vice Chairman Durham concurred and noted that 3 ft. didn't make much difference but was better; he commented he started having concerns about cars being parked on the street and the safety issues that poses.

Board Member Walker commented that he voted for denial both times; he does not want to endanger the people in the community of Lake Orion or add more cars anywhere, but could not get past the fact that the "trigger" for the variance request was the purchase of the boat – there were other methods to resolve the issue. He then questioned if the Township can change zoning requirements for just one specific subdivision? The Board has to follow what the ordinance says and can't pick and choose what they don't like.

Board Member Cook commented that Keatington community is very recreationally oriented, the Township wide ordinance doesn't work for that community - is there a way for those residents to get that changed?

11. ADJOURNMENT

Moved by Commissioner Walker, seconded by Vice Chairman Durham to adjourn the meeting at 8:20pm.

Motion carried unanimously.

Respectfully submitted,



Lynn Harrison
PC/ZBA Recording Secretary
Charter Township of Orion

February 13, 2017

Zoning Board of Appeals Approval